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May 17, 2004
B-H300-04-JGD-031

Dr. Michael C. Romanowski
Assistant Vice President, Civil Aviation
Aerospace Industries Association
1000 Wilson Boulevard, Suite 1700
Arlington, VA 22209-3901

Subject: Boeing Commercial Airplanes' Comments to Notice of Proposed Rulemaking (NPRM), "Establishment of Organization Designation Authorization Procedures"

Reference: Docket No. **FAA-2003-16685**, Notice No. 03-13, published in the Federal Register on January 21, 2004 (69 FR 2969)

Dear Dr. Romanowski:

Enclosed are comments from Boeing Commercial Airplanes concerning the subject NPRM. We generally concur with the proposed rule. It provides significant efficiencies in the certification process and is an important building block toward increased delegation throughout the aviation industry.

However, we have identified four significant problems with it:

1. The rule does not present an organizational delegation based on a systems approach; rather, it is one based on FAA approval of the individual designees within the delegated organization.
2. It includes an expiration date in ODA Letters of Designation, which will create a significant workload for the FAA in renewing these designations and associated delays for the applicant.
3. The rule does not allow the FAA to issue an ODA to non-U.S. entities. Since the aviation industry is global and relies on suppliers outside of the United States, this could pose problems.
4. The FAA's estimated costs of compliance are approximately one order of magnitude too low.

These issues are explained in more detail in the enclosure to this letter.

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Please direct any comments or questions to Ms. Jill DeMarco of this office at
(425) 965-3005.

Sincerely,

/original signed by/

Jim Draxler
Director, Airplane Certification and
Regulatory Affairs

Enclosure

Boeing Commercial Airplanes comments on Notice of Proposed Rulemaking, “Establishment of Organization Designation Authorization (ODA) Procedures”

General Comment:

Change Requested: Revise the proposal to specify that ODA applies to 14 CFR Parts 34 and 36.

Justification: The associated FAA Order 8100-9, “DAS, DOA, and SFAR 36 Authorization Procedures,” explicitly indicates that it does not apply to 14 CFR Parts 34 (Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes) and 36 (Noise Standards). The proposed rule, however, does not indicate if ODA will apply to these parts. . Applying the delegation principles to these areas is a significant opportunity to gain efficiency in the certification process with no associated safety risk. We request that the FAA revised the proposed rule to state that Parts 34 and 36 are included under ODA.

Section 183.1, Scope:

Change Requested: Add a definition of "private organization."

Justification: Where the NPRM refers to adding a Subpart D to address "private organizations," there is no associated action to add this term to 14 CFR 1.1 (Definitions), nor is the term defined in draft Order 8100, ODA.

The definition of "person" in 14 CFR 1.1 does not distinguish between "person" and "organization;" however; the proposed §183.1 revision is intended to make that distinction. The FAA should consider adding the definition of "private organization" to either §183.1 or §183.41 (Applicability and Definitions).

Section 183.45, Issuance of Organization Designation Authorizations

Change Requested: Delete inclusion of an expiration date in the ODA Letter of Designation.

Justification: Paragraph (a) of proposed §183.45 indicates that, among other things, the ODA Letter of Designation will include an “expiration date.” In developing its recommendations, the Aviation Rulemaking Advisory Council (ARA C) Working Group associated with this project did not include an expiration date in its proposal. It intended that the ODA Letter of Designation would remain in effect until surrendered by the applicant or revoked/superseded by the FAA. We

note that there is no mention of this expiration date in the preamble to the NPRM, or any explanation to justify its inclusion.

Application of an expiration date will create a significant workload for the FAA in renewing these designations. This will have the unfortunate effect of diverting critical FAA resources away from higher priority activities.

Section 183.47, Eligibility

Change #1 Requested: Revise eligibility to include foreign entities.

Justification: The proposed rule indicates that only applicants with facilities in the United States will be issued an ODA. Since the aviation industry is global and relies on suppliers outside of the United States, the rule provisions should be changed to allow the FAA to issue an ODA to foreign entities.

Additionally, a clear and consistent interpretation of the term "eligibility" will need to be applied. ODA Holders should not be restricted as to who or where those in its "unit" are located.

Change #2 Requested: Revise §183.47(c) to address Production Certificate (PC) holders who are producing a type certificated product under a licensing agreement and do not hold a Type Certificate (TC) for a given product.

Justification: The proposed paragraph (c) addresses only PC holders holding a current TC or STC. However, in today's industry, there are many PC holders who are producing a type certificated product under a licensing agreement but do not hold a TC for a given product.

Change #3 Requested: Revise §183.47(d) to clarify that companies holding a transferred TC may obtain ODA.

Justification: As written, §183.47(d) appears to deny ODA to a company that holds a TC that was transferred into the company. This would deny ODA to such companies as Boeing or Cessna. We assume that this is not the intent of the paragraph. If the paragraph is to apply only to PMA holders, then it should be revised to clarify this point, and thus reduce confusion or misinterpretation.

Section 183.55, Limitations

Change Requested: Revise the proposal to allow ODA organizations to appoint and manage their staff via FAA-approved processes, without direct FAA approval of each staff member.

Justification: The ARAC Working Group associated with this rulemaking project was tasked by the FAA to develop and define the requirements for an organizational delegation based on a **systems approach** rather than based on the individual designees within the delegated organization. The FAA's stated objective was *"... for a comprehensive, up-to-date, systematic approach for delegation ... and the recommended system would be compatible with similar aviation systems of other countries."*

Such a systems approach entails an appointment process within the delegated organization that is subject to FAA approval. The ARAC Working Group recommended that an approved Procedures Manual (PM) would define the qualification of the Authorized Representatives (AR) and that the PM would also define the selection process. The FAA's oversight would then focus on compliance with the *process*, not focus on the *individuals*.

The FAA found value in this approach. In fact, in the "Background" section of the preamble to the NPRM, the FAA discusses the benefits of a systems approach vs. an individual designee approach:

"Added benefit is gained by appointing organizations rather than individual designees. Organizational designees are managed using a systems approach, which relies on the experience and qualifications of the organization, approval of the procedures used by the organization, and oversight of the functions the organization performs."

However, in another portion of the preamble where the FAA discusses the requirements of §183.55, the FAA indicates that it disagrees with the ARAC Working Group's recommendation relative to specific FAA approval of ODA staff members. The FAA expresses the need to continue to approve the individual designees in a manner consistent with what is done today for Delegated Option Authority (DOA), Designated Alteration Station (DAS), and SFAR-36 organizations. This stated requirement is not a system approach.

These two preamble discussions are in direct conflict with each other.

We request FAA to reconsider the advantages of a systems approach. As one example, trends toward globalization of the aerospace industry will result in appointment of ODA staff from all parts of the world. The FAA will have no prior experience with these staff, and developing that experience will be a duplication of the effort expended by the ODA organization in ensuring that all appointed staff are qualified and operating appropriately. Elimination of duplication of effort is one of the prime reasons for the existence of FAA delegation systems, yet via the proposed requirements of §183.55 such duplication would be perpetuated.

Further, in previous conversations with industry, the FAA has indicated that FAA approval of individual ARs would likely be only an "interim step" that would be in effect only as long as necessary for the FAA to reach a comfort level with an applicant's implementation of its process. The proposed requirements, however, will constrain FAA from ever moving away from approval of individual ARs.

If the FAA does intend to transition to full process oversight in the systems

approach, it should state this clearly at least in the preamble. Alternatively, the preamble could state that a “transition plan” should be included in the Procedures Manual. Under such an approved “transition plan,” the FAA would retain oversight of individual appointments while it gains comfort with the applicant’s application of their approved process. Once the required performance is demonstrated as defined by the transition plan, the FAA will operate solely in a systems oversight mode with the applicant.

Failure to account for the systems approach will result in unnecessary delays for industry in gaining ARs and could negate many of the benefits ODA can provide for both the FAA and industry.

For these reasons, we request that FAA modify §183.55 to allow ODA organizations to appoint and manage their staff via FAA-approved processes, without direct FAA approval of each staff member.

Costs

Change Requested: Recalculate the compliance costs based on the current DDS experience.

Justification: Recent experience by members of the Aerospace Industries of America (AIA) and General Aviation Manufacturers Association (GAMA) with updating their DDS Procedures to comply with the 2002 DDS Order indicates that the FAA’s cost estimates explained in the preamble to the NPRM are approximately one order of magnitude too low. While the FAA did conduct a telephone survey of DDS participants to develop these estimates, the telephone survey was conducted prior to this recent experience. The AIA/GAMA members have experienced long delays and multiple revisions by their cognizant Aircraft Certification Offices for relatively minor changes to comply with an update of the DDS order. Changes to comply with ODA are expected to be more significant, and thus will likely require significantly more expenditures.

Therefore, to provide a more accurate estimate of compliance costs, we request that FAA incorporate the latest DDS experience into its calculations.

bcc (e-mail) for Letter B-H300-04-JGD-

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